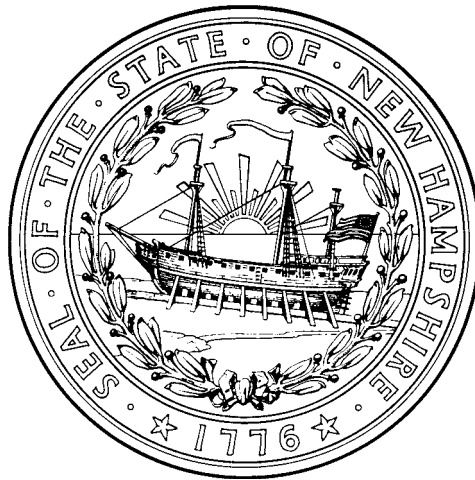


**March 4, 2009
Nos. 5- 6**

STATE OF NEW HAMPSHIRE

Web Site Address: www.gencourt.state.nh.us



161st Session of the New Hampshire General Court

Legislative Proceedings

SENATE JOURNAL

ADJOURNMENT – FEBRUARY 18, 2009 SESSION

COMMENCEMENT – MARCH 4, 2009 SESSION

SENATE JOURNAL 5 *(continued)*

February 18, 2009

HOUSE MESSAGE

The House of Representatives has passed Bills with the following titles, in the passage of which it asks the concurrence of the Senate:

HB 41, allowing the executive director of fish and game to donate certain hunting and fishing permits to the wildlife heritage foundation of New Hampshire.

HB 56-FN, renaming a bridge to honor U. S. Navy Seal Daniel Healy.

HB 79, relative to use of the child support guideline worksheet.

HB 86, allowing towns to issue citations and accept pleas by mail for local ordinance violations.

HB 93, relative to the minimum age for fighting sports competitions.

HB 98, relative to reinstatement of lapsed licenses of speech-language pathologists.

HB 103, relative to paying discharged and laid off employees.

HB 112, relative to addresses on motor vehicle registrations.

HB 116, relative to the membership of the legislative youth advisory council.

HB 132, relative to access to case records of the department of health and human services.

HB 162, relative to recycled and rebuilt vehicles.

HB 173, relative to the basis for awarding custody to a stepparent or grandparent.

HB 182, relative to fish and game department authorization to administer programs involving federal aid, and relative to biennial reports of the department.

HB 216-FN, relative to fees for legal services rendered to workers' compensation claimants.

HB 223-FN-L, changing the effective date for the implementation of the retirement system employer assessments for excess benefits.

HB 243, authorizing the designation of special assistant attorneys general.

HB 265, relative to proving qualifications to vote.

HB 343, relative to payroll deductions.

HB 451, authorizing a transaction fee for license agents electronically issuing fish and game licenses.

HB 545-FN, relative to the wildlife damage control program in the fish and game department.

HB 602-FN-A, relative to costs associated with cashing payroll checks.

INTRODUCTION OF HOUSE BILL

Sen. Hassan offered the following Resolution:

RESOLVED, That in accordance with the list in the possession of the Senate Clerk, the following House legislation shall be by this Resolution read a first and second time by the therein listed title and referred to the therein designated committee.

Resolution adopted.

First and Second Reading and Referral

HB 223-FN-L, changing the effective date for the implementation of the retirement system employer assessments for excess benefits. (Executive Departments and Administration Committee)

REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bills:

HB 30, requiring operating budget reductions for fiscal year 2009.

SB 38, relative to placing vote tallies on town and school district ballots.

Sen. D'Allesandro moved adoption of the Report of Committee on Enrolled Bills.

Report of Committee on Enrolled Bills adopted.

INTRODUCTION OF SENATE BILLS

Sen. Hassan offered the following Resolution:

RESOLVED, That in accordance with the list in the possession of the Senate Clerk, the following Senate legislation shall be by this Resolution read a first and second time by the therein listed titles and referred to the therein designated committees.

Resolution adopted.

First and Second Reading and Referral

09-1047

SB 5, prohibiting retailers from disclosing private consumer information to foreign states in connection with the collection of certain sales and use taxes. (Hassan, Dist 23; Barnes, Jr., Dist 17; Bragdon, Dist 11; Carson, Dist 14; Cilley, Dist 6; D'Allesandro, Dist 20; DeVries, Dist 18; Downing, Dist 22; Fuller Clark, Dist 24; Gallus, Dist 1; Gatsas, Dist 16; Gilmour, Dist 12; Houde, Dist 5; Janeway, Dist 7; Kelly, Dist 10; Larsen, Dist 15; Lasky, Dist 13; Letourneau, Dist 19; Merrill, Dist 21; Odell, Dist 8; Reynolds, Dist 2; Roberge, Dist 9; Sgambati, Dist 4; Packard, Rock 3; Hess, Merr 9; Wallner, Merr 12; Eaton, Ches 2; Reardon, Merr 11: Commerce, Labor and Consumer Protection)

09-0886

SB 188, relative to hospital billing for professional services. (Cilley, Dist 6; Gilmour, Dist 12; S. Price, Straf 3; E. Merrick, Coos 2; Emerson, Ches 7: Commerce, Labor and Consumer Protection)

09-1023

SB 189, relative to decisions of local land use boards. (DeVries, Dist 18; Carson, Dist 14; R. Holden, Hills 7; Theberge, Coos 4: Public and Municipal Affairs)

09-1034

SB 190, relative to race track cocktail lounge licenses. (D'Allesandro, Dist 20: Executive Departments and Administration)

09-1031

SB 191-FN-A, increasing the differential pay for certain employees of the Glencliff home. (Reynolds, Dist 2: Finance)

09-1036

SB 192-FN-LOCAL, relative to fines for housing code violations. (Lasky, Dist 13: Public and Municipal Affairs)

09-1013

SB 193, relative to the interest rate on small loans and relative to the definition of lender for purposes of regulating such loans. (Houde, Dist 5; Hassan, Dist 23; Janeway, Dist 7; Kurk, Hills 7; M. Smith, Straf 7; Butler, Carr 1; Almy, Graf 11: Commerce, Labor and Consumer Protection)

09-1025

SB 194, relative to the negotiation of payroll checks. (Gatsas, Dist 16; Barnes, Jr., Dist 17; Bragdon, Dist 11; Carson, Dist 14; D'Allesandro, Dist 20; Denley, Dist 3; Downing, Dist 22; Gallus, Dist 1; Gilmour, Dist 12; Lasky, Dist 13; Letourneau, Dist 19; Roberge, Dist 9; Sgambati, Dist 4; Goley, Hills 8; Infantine, Hills 13: Commerce, Labor and Consumer Protection)

Out of Recess.

MOTION TO ADJOURN FROM LATE SESSION

Sen. Hassan moved that the Senate adjourn from the Late Session.

Motion adopted.

Adjournment from the Late Session.

SENATE JOURNAL 6

March 4, 2009

The Senate reconvened at 1 p.m., a quorum being present.

The Senate Memorial Candle burns throughout today's session in memory of the honorable Senator William A. Johnson (Dist. 17, 1983-1990).

The Reverend Canon Charles Lafond, chaplain to the Senate, offered the following meditative thoughts and prayer:

As I look back over my life, I'm aware that the worst crisis to befall me generated the best of who I am. And I find that very strange, that pain and tragedy can cause good things to happen. And we're living in a time of great fear, so it applies. And of course the greatest forests in New Hampshire are born out of so many fires and so much devastation that cause them to grow so strong and beautiful. Suffering is a lot like nutmeg; a little spoonful of it in an apple pie makes the apple pie, but a spoonful of it in your mouth, it's awfully bitter. But I'll tell you a secret. I lived in Haiti for a few years, and a big spoonful of nutmeg will cure diarrhea in 20 minutes. (Laughter) So new life and diarrhea: you never know what you're going to hear in the State Senate Chamber. Let us pray:

God of all hope, in these difficult times we are driven to a deeper spirituality, and though You weep with us, You rejoice at our inner growth. Lead us as we lead others in this State of New Hampshire; guide our thoughts and inspire our love, for ourselves and for each other. Amen

Sen. Janeway led the Pledge of Allegiance.

Sen. D'Allesandro is excused from today's session.

President Larsen notified the Senate body of a letter of resignation from Sen. William Denley dated 2/21/09, stating that, without objection, his resignation shall be recorded in the permanent journal.

SENATOR BARNES (Rule 44): Thank you, Madam President. I would like to put a Rule 44 together. As my colleagues are looking up at the front where our Senate President is, you'll see a candle burning. Some of you might wonder what that candle is doing burning. Well, the policy of the Senate has been, for a number of years, if one of our former colleagues passes, a candle is lit for the Senator. Well, that candle is burning for a gentleman who sat in my seat for eight years, Sen. William Johnson, Bill Johnson. The only people that served with him in this body was, Sen. Roberge was here; Tammy, our Clerk, was here when Bill was here, and when Bill was here I was in the hall across the way. Bill was a Veteran, he served in the U.S. Navy. He was a very proud person, he represented his district well. If you think back on it, he had four elections that he won, and in each election he had a primary; he never got a free ride. And he always won. One of the people he beat is a fellow by the name of Jack Barnes, first time out. He cleaned my socks, rang my bell or whatever you want to say. Next time around it was different, but we won't get into that. Another person who ran against Bill and was unsuccessful was a fellow by the name of Lynn, who happens to be a judge in our Superior Court system. So he had some competition, but the people in District 17 thought enough of him to get him through the primaries and he went on in the general elections and had no problems in the general elections. He was one of the Johnsons in Northwood. There were many Johnsons in Northwood. We paid respect to the former "mayor," our friend Bob Johnson, a couple of weeks ago. No relationship. Bill came from Illinois.

Now, I want to put a little addendum on it, if I may. I ran against Bill two times, and they were two of the most unpleasant campaigns that I was ever in. Things were said and done on both sides that I wished hadn't have happened. Sometimes, and I'm saying this for everyone here in this chamber – sometimes political races get a little hot, and sometimes people do say things. Well, it was about ten years, maybe 12 years, that Bill and I had no contact with each other. You might say there was strong dislike on both sides of the issue. However, the Good Lord gave me a second chance. This past July, Fran and I – Fran's my wife – were up in Pittsfield, which is part of District 17, at an Old Home Day, and boy, it was a hot day. And as we were walking through the midway before the parade started, Fran says to me: "Jack, there's Bill Johnson." And I looked over, and I said, "Oh my goodness." He was sitting at a table in the church yard, the Episcopal Church, and he was sitting out on the front lawn. So I said to myself: I'm going over there. So I went over, and Bill and I, for the first time in ten years, had a conversation. It started out kind of cold. Bill, as we started off, talked about his run for the House, he ran for Congress a few years back. And I said, "Well, I ran for Vice-President." And we

went from there. And we sat and chewed the fat for about an hour, and when we left there, the atmosphere was as hot as the day it was, and it was a hot day, and I was so thankful that I had a second chance to bury the hatchet. And with that – remember that, guys, remember that in life: people – you know, everybody's got blood in their bodies, everybody's got feelings, and sometimes politics gets nasty and dirty. But for God sakes, I'm so happy that last July I was able to sit down and make peace with that man who that candle is burning for. Thank you.

President Larsen moved, without objection, that the Rule 44 will be entered into the permanent record.

INTRODUCTION OF GUESTS AND PRESENTATIONS

Resolution presented by Sen. Sgambati in recognition of "Baby Giovanni" Michael Guglielmo and the work of his parents, Christina M. Poulicakos and Michael A. Guglielmo, resulting in the largest patient-driven bone marrow movement in history, causing 22,026 new donors to join the national registry through 348 Giovanni bone marrow drives which have produced 19 life-saving matches.

Bernard W. Folta, District 8 constituent.

Senate Page: Mackenzie Wrath, Ashland Elementary Middle School.

Senate Page: Sarah Uhlman, Ashland Elementary Middle School.

FINANCE REPORT

Sen. Janeway reported the following bills will go to Committee on Finance: SB 89, SB 144, SB 159, SB 184; the following bills will be waived by Finance: SB 31, SB 63, SB 69, SB 160, SB 165, SB 170, SB 171, SB 174, SB 176, SB 183, SB 185.

COMMITTEE REPORTS

SPECIAL ORDER

President Larsen moved, without objection, that the Commerce, Labor and Consumer Protection Committee legislation be Special-Ordered to the end of today's Calendar.

Commerce, Labor and Consumer Protection Committee

SB 89-FN, relative to unemployment overpayments.

SB 144-FN, allowing the unemployment compensation trust fund to be charged for benefits paid for certain employee terminations.

SB 170-FN, relative to benefits for unemployed persons who are attempting to establish a business.

SB 26, relative to degree granting authority for St. John International University. Education Committee. Ought to Pass, Vote 6-0. Senator Kelly for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on SB 26.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

(Sen. Fuller Clark presiding.)

SB 161-FN, relative to responsibility for school attendance. Education Committee. Inexpedient to Legislate, Vote 6-0. Senator Kelly for the committee.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on SB 161-FN.

Motion of Inexpedient to Legislate adopted.

SB 41, relative to campaign activities at polling places. Election Law and Veterans' Affairs Committee. Inexpedient to Legislate, Vote 4-0. Senator Houde for the committee.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on SB 41.

Motion of Inexpedient to Legislate adopted.

SB 148, establishing that the state of New Hampshire recognizes the designations of Prisoner of War (POW) and Missing in Action (MIA) as valid descriptions of casualty status and category classification for military personnel. Election Law and Veterans' Affairs Committee. Ought to Pass, Vote 4-0. Senator Lasky for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on SB 148.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

SB 183-FN, relative to the number of daily journals printed by the house and senate clerks. Election Law and Veterans' Affairs Committee. Ought to Pass, Vote 4-0. Senator Barnes for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on SB 183-FN.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

SB 159-FN, relative to broadband technology planning and development. Energy, Environment and Economic Development Committee. Ought to Pass with Amendment, Vote 4-0. Senator Cilley for the committee.

Energy, Environment and Economic Development

February 19, 2009

2009-0426s

05/04

Amendment to SB 159-FN

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 4:

3 Director of Broadband Technology Planning and Development; Funding for Position. Funding for the position of director of broadband technology planning and development established in section 2 of this act shall be contingent upon the receipt of grants or federal funds for such purpose, including but not limited to funds received pursuant to the American Recovery and Reinvestment Act of 2009, H.R. 1, 111th Cong. (2009).

2009-0426s

AMENDED ANALYSIS

This bill establishes the position of director of broadband technology planning and development in the department of resources and economic development. The director's duties include the development of a comprehensive broadband plan for the state of New Hampshire. Funding for the position is contingent on receipt of grants or federal funds for this purpose.

The question is on the adoption of Committee Amendment 0426s.

Committee Amendment 0426s adopted.

The question is on the motion of Ought to Pass as Amended on SB 159-FN.

Motion of Ought to Pass as Amended adopted, bill ordered to Committee on Finance (Rule 26).

SB 14, relative to the governing boards of allied health professionals. Executive Departments and Administration Committee. Ought to Pass with Amendment, Vote 4-0. Senator DeVries for the committee.

Senate Executive Departments and Administration

February 18, 2009

2009-0401s

10/04

Amendment to SB 14

Amend the bill by replacing sections 1 and 2 with the following:

1 Allied Health Professionals; Governing Boards; Rulemaking. Amend RSA 328-F:11, I(b) to read as follows:

(b) The eligibility requirements for license renewal, including any continuing competency requirements ~~[and]~~, any requirements for education, clinical experience, and training, ***and any waivers of eligibility requirements based on engagement in active duty service in the armed forces for a period of 90 consecutive days or more.***

2 Allied Health Professionals; License Renewals. Amend RSA 328-F:19, II to read as follows:

II. Each governing board shall renew the licenses of applicants who meet the eligibility requirements and complete the application procedure. ***Each governing board shall have the authority to establish by rule adopted under RSA 541-A waivers of the eligibility requirements for renewal for reasons of engagement in active duty service in the armed forces for a period of 90 consecutive days or more.***

2009-0401s

AMENDED ANALYSIS

This bill allows the governing boards of allied health professionals to adopt rules for waivers for license renewals for active duty military service.

The question is on the adoption of Committee Amendment 0401s.

Committee Amendment 0401s adopted.

The question is on the motion of Ought to Pass as Amended on SB 14.

Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.

SB 81, relative to urology patients. Executive Departments and Administration Committee. Inexpedient to Legislate, Vote 4-0. Senator Carson for the committee.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on SB 81.

Motion of Inexpedient to Legislate adopted.

SB 160-FN, relative to benefits of dependents of a group II retirement system member who is killed or dies in the performance of duty. Executive Departments and Administration Committee. Ought to Pass, Vote 4-0. Senator Downing for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on SB 160-FN.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

SB 165-FN, relative to fire alarm installer service certification for licensed electricians. Executive Departments and Administration Committee. Ought to Pass with Amendment, Vote 4-0. Senator DeVries for the committee.

Executive Departments and Administration

February 18, 2009

2009-0400s

10/04

Amendment to SB 165-FN

Amend the title of the bill by replacing it with the following:

AN ACT relative to fire equipment service certification.

Amend the bill by replacing all after the enacting clause with the following:

1 State Fire Marshal; Fire Equipment Service Certification. Amend RSA 153:5-a to read as follows:

153:5-a Fire Equipment Service Certification. The commissioner of safety, in consultation with the advisory committee established in RSA 153:5-b, shall adopt rules pursuant to RSA 541-A, for the voluntary certification of persons engaged in the inspection, installation, and servicing of portable fire extinguishers and fixed fire extinguishing systems, fire sprinkler systems, and fire alarm [~~and detection~~] systems in this state. Such rules may include the issuance of various types and classes of certificates, and a fee not to exceed \$200 for such issuance, for an individual or firm engaged in the installation or servicing of such extinguishing and [~~detection~~] **fire alarm** systems. Fees shall be deposited in the fire standards and training and emergency medical services fund, established in RSA 21-P:12-d. Applicants for certification shall provide proof of certification by a national organization recognized by the commissioner and provide proof of insurance.

2 Advisory Committee. Amend the section heading and introductory paragraph of RSA 153:5-b to read as follows:

153:5-b Advisory Committee on Portable Fire Extinguisher and Fixed Fire Extinguishing Systems, Fire Sprinkler Systems, and Fire Alarm [~~and Detection~~] Systems. The commissioner of safety shall establish a committee to advise and assist the commissioner on the rulemaking requirements and implementation of the voluntary certification of persons engaged in the inspection, installation, and servicing of portable fire extinguishers and fixed fire extinguishing systems, fire sprinkler systems, and fire alarm [~~and detection~~] systems in this state provided for in RSA 153:5-a. The commissioner shall appoint the members of the advisory committee **and alternates for each appointee**, with the state fire marshal serving as an ex officio member, as follows:

3 Advisory Committee Membership. Amend RSA 153:5-b, X to read as follows:

X. One member [øf] ***nominated by*** the state electricians' board.

4 Effective Date. This act shall take effect July 1, 2009

2009-0400s

AMENDED ANALYSIS

This bill clarifies the regulation of installers and servicers of fire alarm systems by the department of safety.

The question is on the adoption of Committee Amendment of 0400s.

Committee Amendment 0400s adopted.

The question is on the motion of Ought to Pass as Amended on SB 165-FN.

Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.

SB 184-FN, relative to establishing the position of administrative director of the division of medical and forensic services in the department of corrections. Executive Departments and Administration Committee. Ought to Pass, Vote 3-0. Senator Cilley for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on SB 184-FN.

Motion of Ought to Pass adopted, bill ordered to Committee on Finance (Rule 26).

SB 23, relative to food allergy awareness in restaurants and other food service establishments. Health & Human Services Committee. Inexpedient to Legislate, Vote 5-0.

Senator Kelly for the committee.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on SB 23.

Motion of Inexpedient to Legislate adopted.

SB 63-FN, relative to ensuring consumer access to care upon the termination of a participating provider. Health & Human Services Committee. Ought to Pass, Vote 4-1.

Senator Sgambati for the committee.

MOTION TO TABLE

Sen. Sgambati moved to table.

Motion adopted.

LAID ON THE TABLE

SB 63-FN, relative to ensuring consumer access to care upon the termination of a participating provider.

(Sen. Larsen presiding.)

SB 171-FN, relative to competency evaluations. Health & Human Services Committee. Ought to Pass with Amendment, Vote 5-0. Senator Downing for the committee.

February 17, 2009

2009-0382s

01/09

Amendment to SB 171-FN

Amend RSA 135:17, I as inserted by section 1 of the bill by replacing it with the following:

I. When a person is charged or indicted for any offense, or is bound over by any district or municipal court to await the action of the grand jury, the district or superior court before which he or she is to be tried, if a plea of insanity is made in court, or said court is notified by either party that there is a question as to the competency or sanity of the person, may make such order for a pre-trial [psychiatric] examination of such person by a ***qualified*** psychiatrist ***or psychologist*** on the staff of any public institution or by a private ***qualified*** psychiatrist ***or psychologist*** as the circumstances of the case may require, which order may include, though without limitation, examination at the secure psychiatric unit on an out-patient basis, the utilization of local mental health

clinics on an in- or out-patient basis, or the examination of such person, should he or she be incarcerated for any reason, at his or her place of detention by **qualified** psychiatrists **or psychologists** assigned to a state or local mental health facility. Such pre-trial examination shall be completed within 60 days after the date of the order for such examination, unless either party requests an extension of this period.

Amend RSA 135:17-A, III as inserted by section 2 of the bill by replacing it with the following:

III. Except for good cause shown, a further hearing to determine the defendant's competency shall be held no later than 12 months after the order committing the defendant for treatment. The hearing may be held earlier if the court is notified that the defendant has been restored to competency, or that there is no longer a reasonable likelihood of such restoration. Prior to the scheduled hearing, the **qualified** psychiatrist **or psychologist** who conducted the initial competency evaluation shall conduct a further evaluation pursuant to RSA 135:17, and furnish a copy of the report of such evaluation to the court and the parties. If that **qualified** psychiatrist **or psychologist** is unavailable or unable to conduct such further evaluation, the court may order that the evaluation be conducted by another qualified psychiatrist **or psychologist** other than the treating **qualified** psychiatrist **or psychologist**.

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 5:

3 New Paragraph; Board of Medicine; Rulemaking Added. Amend RSA 329:9 by inserting after paragraph XV-a the following new paragraph:

XV-b. The qualifications necessary for psychiatrists to perform competency evaluations under RSA 135:17.

4 New Paragraph; Board of Mental Health Practice; Rulemaking Added. Amend RSA 330-A:10 by inserting after paragraph XXIII the following new paragraph:

XXIV. The qualifications necessary for psychologists to perform competency evaluations under RSA 135:17.

2009-0382s

AMENDED ANALYSIS

This bill permits psychologists to conduct competency evaluations when a plea of insanity is made in court. Current law only allows such examinations to be conducted by psychiatrists.

The question is on the adoption of Committee Amendment 0382s.

Committee Amendment 0382s adopted.

The question is on the adoption of Ought to Pass as Amended on SB 171-FN.

Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.

SB 185-FN, relative to rates and charges for medical services to state prisoners. Health & Human Services Committee. Ought to Pass, Vote 5-0. Senator Sgambati for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on SB 185-FN.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

SB 31-FN, establishing the Candia District Court and the Manchester District Court as judicial branch family division sites. Judiciary Committee. Ought to Pass, Vote 5-0. Senator Houde for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on SB 31-FN.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

SB 174-FN, relative to state recoveries of public assistance caused by fraud. Judiciary Committee. Ought to Pass, Vote 5-0. Senator Letourneau for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on SB 174-FN.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

SB 176-FN, establishing an application fee for probationers and parolees who apply to be supervised in another state. Judiciary Committee. Ought to Pass, Vote 5-0. Senator Roberge for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on SB 176-FN.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

SB 177-FN-L, relative to the cost of lodging of persons sentenced to a county correctional facility. Judiciary Committee. Inexpedient to Legislate, Vote 5-0. Senator Letourneau for the committee.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on SB 177-FN-L.

Motion of Inexpedient to Legislate adopted.

(Concord's Kimball School students welcomed by President Larsen and the Senate body.)

SB 29, relative to review of developments of regional impact. Public and Municipal Affairs Committee. Ought to Pass with Amendment, Vote 4-0. Senator DeVries for the committee.

Public and Municipal Affairs

February 19, 2009

2009-0422s

03/09

Amendment to SB 29

Amend the bill by replacing all after the enacting clause with the following:

1 Review of Applications for Development; Regional Impact; Guidelines. Amend RSA 36:56 to read as follows:

36:56 Review Required.

I. A local land use board, as defined in RSA 672:7, upon receipt of an application for development, shall review it promptly and determine whether or not the development, if approved, reasonably could be construed as having the potential for regional impact. Doubt concerning regional impact shall be resolved in a determination that the development has a potential regional impact.

II. Each regional planning commission may, with public participation, develop guidelines to assist the local land use boards in its planning region in their determinations whether or not a development has a potential regional impact. The regional planning commission may update the guidelines every 5 years and provide them to all municipalities in the planning region.

2 Effective Date. This act shall take effect 60 days after its passage.

2009-0422s

AMENDED ANALYSIS

This bill authorizes regional planning commissions to develop guidelines to assist local land use boards in determining whether a development has potential for regional impact.

The question is on the adoption of Committee Amendment 0422s.

Committee Amendment 0422s adopted.

The question is on the motion of Ought to Pass as Amended on SB 29.

Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.

SB 75-L, changing the formula for distribution of highway funds in the Woodsville fire district. Public and Municipal Affairs Committee. Ought to Pass, Vote 5-0. Senator Houde for the committee.

The question is on the adoption of committee recommendation of Ought to Pass on SB 75-L.

Motion of Ought to Pass adopted, bill ordered to Third Reading.

SB 86, relative to the minimum period of service for eligibility for the veterans' property tax credit. Public and Municipal Affairs Committee. Inexpedient to Legislate, Vote 4-1. Senator Barnes for the committee.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on SB 86.

Motion of Inexpedient to Legislate adopted.

SB 93, extending the exemption from subsequent local land use regulation where substantial development has begun on an approved plan. Public and Municipal Affairs Committee. Ought to Pass with Amendment, Vote 5-0. Senator Sgambati for the committee.

Public and Municipal Affairs
February 19, 2009
2009-0428s
10/04

Amendment to SB 93

Amend RSA 674:39 as inserted by section 1 of the bill by replacing it with the following:

674:39 [Four] **Six-Year Exemption.**

I. Every subdivision plat approved by the planning board and properly recorded in the registry of deeds and every site plan approved by the planning board and properly recorded in the registry of deeds, if recording of site plans is required by the planning board or by local regulation, shall be exempt from all subsequent changes in subdivision regulations, site plan review regulations, impact fee ordinances, and zoning ordinances adopted by any city, town, or county in which there are located unincorporated towns or unorganized places, except those regulations and ordinances which expressly protect public health standards, such as water quality and sewage treatment requirements, for a period of [4] **6** years after the date of approval; provided that:

(a) Active and substantial development or building has begun on the site by the owner or the owner's successor in interest in accordance with the approved subdivision plat within 12 months after the date of approval, or in accordance with the terms of the approval, and, if a bond or other security to cover the costs of roads, drains, or sewers is required in connection with such approval, such bond or other security is posted with the city, town, or county in which there are located unincorporated towns or unorganized places, at the time of commencement of such development;

(b) Development remains in full compliance with the public health regulations and ordinances specified in this section; and

(c) At the time of approval and recording, the subdivision plat or site plan conforms to the subdivision regulations, site plan review regulations, and zoning ordinances then in effect at the location of such subdivision plat or site plan.

II. Once substantial completion of the improvements as shown on the subdivision plat or site plan has occurred in compliance with the approved subdivision plat or site plan or the terms of said approval or unless otherwise stipulated by the planning board, the rights of the owner or the owner's successor in interest shall vest and no subsequent changes in subdivision regulations, site plan regulations, or zoning ordinances, except impact fees adopted pursuant to RSA 674:21 and 675:2-4, shall operate to affect such improvements.

III. The planning board may, as part of its subdivision and site plan regulations or as a condition of subdivision plat or site plan approval, specify the threshold levels of work that shall constitute the following terms, with due regard to the scope and details of a particular project:

(a) "Substantial completion of the improvements as shown on the subdivision plat or site plan," for purposes of fulfilling paragraph II; and

(b) "Active and substantial development or building," for the purposes of fulfilling paragraph I.

IV. Failure of a planning board to specify by regulation or as a condition of subdivision plat or site plan approval what shall constitute "active and substantial development or building" shall entitle the subdivision plat or site plan approved by the planning board to the [4] **6**-year exemption described in paragraph I. The planning board may, for good cause, extend the 12-month period set forth in paragraph I(a).

2009-0428s

AMENDED ANALYSIS

This bill increases the time period for a property to be exempt from subsequent planning board regulation from 4 to 6 years from the date of approval of a subdivision plat or site plan.

MOTION TO TABLE

Sen. Sgambati moved to table.

Motion adopted.

LAID ON THE TABLE

SB 93, extending the exemption from subsequent local land use regulation where substantial development has begun on an approved plan.

SB 110, authorizing appointment of town clerks. Public and Municipal Affairs Committee.

Inexpedient to Legislate, Vote 2-0. Senator DeVries for the committee.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on SB 110.

Motion of Inexpedient to Legislate adopted.

SB 136-FN, relative to the motor vehicle registration fee supporting a municipal and transportation improvement fund. Public and Municipal Affairs Committee. Inexpedient to Legislate, Vote 3-2. Senator Sgambati for the committee.

MOTION TO TABLE

Sen. Sgambati moved to table.

Motion adopted.

LAID ON THE TABLE

SB 136-FN, relative to the motor vehicle registration fee supporting a municipal and transportation improvement fund.

SB 69-FN, eliminating the financial ceiling on design build contracting for transportation projects. Transportation and Interstate Cooperation Committee. Ought to Pass with Amendment, Vote 5-0. Senator Fuller Clark for the committee.

Transportation and Interstate Cooperation

February 20, 2009

2009-0440s

06/03

Amendment to SB 69-FN

Amend the title of the bill by replacing it with the following:

AN ACT relative to design build contracting for transportation projects.

Amend the bill by replacing all after the enacting clause with the following:

1 State Transportation Projects. Amend RSA 228:4, I(c) to read as follows:

(c) Statewide transportation improvement program projects with a cost not to exceed ~~[\$5,000,000]~~ **\$25,000,000** may be developed and constructed utilizing the design build concept based on a request for proposal[;]. ***Such projects may be developed and constructed*** provided that selection is based on an objective standard and measurable criteria for evaluation of the proposals. ~~[The commissioner shall report the results of any statewide transportation improvement program project using the design build concept to the capital budget overview committee within 90 days after the completion of the project.]~~

2 New Subparagraph; State Transportation Projects. Amend RSA 228:4, I by inserting after subparagraph (c) the following new subparagraph:

(d) Statewide transportation improvement program projects with a cost in excess of \$25,000,000 may be developed and constructed utilizing the design build concept based on a request for proposal provided that the department first demonstrates that using the design build concept for the project in question benefits the state more than using conventional contracting methods. The department shall hold a publicly noticed hearing to take comment on its proposal to use the design build concept for a particular project. Such notice shall be provided at least 14 days prior to the hearing date. The department shall allow for a 30-day public comment period before submitting its proposal to the governor and executive council for formal approval. The commissioner shall report the results of any statewide transportation improvement program project using the design build concept to the capital budget overview committee within 90 days after the completion of the project.

3 Effective Date. This act shall take effect upon its passage.

2009-0440s**AMENDED ANALYSIS**

This bill:

I. Increases the cost limit for transportation projects that are excluded from the competitive bidding requirement because they utilize the design build concept.

II. Permits the use of design build contracting for certain transportation projects that exceed the cost limit.

This bill is a request of the department of transportation.

The question is on the adoption of Committee Amendment 0440s.

Committee Amendment 0440s adopted.

Sen. Letourneau offered Floor Amendment 0519s.

Sen. Letourneau, Dist. 19

March 2, 2009

2009-0519s

06/03

Floor Amendment to SB 69-FN

Amend the bill by replacing section 2 with the following:

2 New Subparagraph; State Transportation Projects. Amend RSA 228:4, I by inserting after subparagraph (c) the following new subparagraph:

(d) Statewide transportation improvement program projects with a cost in excess of \$25,000,000 may be developed and constructed utilizing the design build concept based on a request for proposal provided that the department first demonstrates that using the design build concept for the project in question benefits the state more than using conventional contracting methods. The department shall hold a publicly noticed hearing to take comment on its proposal to use the design build concept for a particular project. Such notice shall be provided at least 14 days prior to the hearing date. The department shall allow for a 30-day public comment period following the publicly-noticed hearing before submitting its proposed use of the design build concept to the governor and executive council for formal approval. After the governor and council approve use of the design build concept for the project, the department may solicit bids from contractors. Any contract with the selected bidder shall be submitted to the governor and council for final approval. The commissioner shall report the results of any statewide transportation improvement program project using the design build concept to the capital budget overview committee within 90 days after the completion of the project.

The question is on the adoption of Floor Amendment 0519s.

Floor Amendment 0519s adopted.

The question is on motion of Ought to Pass as Amended on SB 69-FN.

Motion of Ought to Pass as Amended adopted, bill ordered to Third Reading.

SB 104-FN-A, relative to driveway construction permit fees. Transportation and Interstate Cooperation Committee. Inexpedient to Legislate, Vote 4-0. Senator Letourneau for the committee.

The question is on the adoption of committee recommendation of Inexpedient to Legislate on SB 104-FN-A.

Motion of Inexpedient to Legislate adopted.

(The Senate sang "Happy Birthday" in recognition of Sen. Hassan's birthday.)

Recess/Out of Recess.

SPECIAL ORDER

President Larsen moved, without objection, that today's Commerce, Labor and Consumer Protection Committee legislation shall be Special-Ordered to March 11, 2009 Session's Calendar.

Commerce, Labor and Consumer Protection Committee

SB 89-FN, relative to unemployment overpayments.

SB 144-FN, allowing the unemployment compensation trust fund to be charged for benefits paid for certain employee terminations.

SB 170-FN, relative to benefits for unemployed persons who are attempting to establish a business.

MOTION TO ADJOURN FROM EARLY SESSION

Sen. Hassan moved that the Senate adjourn from the Early Session, that the business of the Late Session be in order at the present time, that all bills and resolutions ordered to Third Reading be, by this resolution, read a third time, all titles be the same as adopted, and that they be passed at the present time.

Motion adopted.

Adjournment from the Early Session.

LATE SESSION

Third Reading and Final Passage

SB 14, relative to the governing boards of allied health professionals.

SB 26, relative to degree granting authority for St. John International University.

SB 29, relative to review of developments of regional impact.

SB 31-FN, establishing the Candia District Court and the Manchester District Court as judicial branch family division sites.

SB 69, relative to design build contracting for transportation projects.

SB 75-L, changing the formula for distribution of highway funds in the Woodsville fire district.

SB 148, establishing that the state of New Hampshire recognizes the designations of Prisoner of War (POW) and Missing in Action (MIA) as valid descriptions of casualty status and category classification for military personnel.

SB 160-FN, relative to benefits of dependents of a group II retirement system member who is killed or dies in the performance of duty.

SB 165-FN, relative to fire equipment service certification.

SB 171-FN, relative to competency evaluations.

SB 174-FN, relative to state recoveries of public assistance caused by fraud.

SB 176-FN, establishing an application fee for probationers and parolees who apply to be supervised in another state.

SB 183-FN, relative to the number of daily journals printed by the house and senate clerks.

SB 185-FN, relative to rates and charges for medical services to state prisoners.

ANNOUNCEMENTS

MOTION TO RECESS TO CALL OF THE CHAIR

Sen. Hassan moved that the Senate recess to the Call of the Chair for the purposes of introducing legislation, referring bills to committee, scheduling hearings, sending and receiving messages, and processing enrolled bill reports and amendments.

Motion adopted.

The Senate is in recess to the Call of the Chair.